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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Victoria A. Amelina, an individual;
and A.A.; D.S. and B.S., each
individuals and minors by and
through their Guardian ad Litem,
Victoria A. Amelina

Plaintiffs,

v.

Manufacturers and Traders Trust
Company aka M&T Bank,
Safeguard Properties, LLC, and
The Wolf Law Firm, A Law
Corporation

Defendants.

Case No: 3:14-cv-01906-WQH-NLS

**Notice of Motion and Motion For
Appointment Of Guardian ad
Litem For Plaintiffs A.A, D.S, And
B.S.**

HYDE & SWIGART
San Diego, California

1 Applicant, Victoria A. Amelina, the parent of Plaintiffs A.A, D.S, and B.S,
2 seeks the appointment of Victoria A. Amelina, whose residence address and
3 telephone number is 1355 Nicolette Avenue Unit 1313, Chula Vista, CA 91913 as
4 Guardian ad Litem for Plaintiffs A.A., D.S. and B.S. The Guardian ad Litem is to
5 represent the interests of A.A, D.S. and B.S. all of whom reside at address 1355
6 Nicolette Avenue Unit 1313, Chula Vista, CA 91913. A.A., D.S., and B.S. are
7 minors. A.A. was born on October 1, 2004. D.S. was born on August 30, 2001. B.S.
8 was born on August 19, 1996.

9 The Court should appoint a Guardian ad Litem because A.A., D.S., and B.S.,
10 were subjected to unfair debt collection practices by Defendants Manufacturers and
11 Traders Trust Company aka M&T Bank,; Safeguard Properties, LLC, and The Wolf
12 Law Firm, A Law Corporation pursuant to the Rosenthal Fair Debt Collection
13 Practices Act, California Civil §§ 1788-1788.32 (RFDCPA) and the Fair Debt
14 Collection Practices Act, 15 U.S.C §§ 1692 et seq (FDCPA). The appointment of a
15 Guardian ad Litem is necessary because Plaintiffs need the aid of a Guardian ad
16 Litem to bring Plaintiffs' actions pursuant to the RFDCPA and FDCPA.

17 The proposed Guardian ad Litem, Victoria A. Amelina, is the mother of the
18 minors. The proposed Guardian ad Litem, Victoria A. Amelina, is fully competent
19 and qualified to understand and protect the rights of the minors she will represent.

20 The proposed Guardian ad Litem Victoria A. Amelina has no interest adverse
21 to the interests of the minors she will represent. Victoria A. Amelina and Plaintiffs
22 A.A., D.S., and B.S., are Plaintiffs in the above-captioned case because of the fact
23 that the claims of each plaintiff against Defendants arose from the same transaction
24 or occurrence. However, there is no conflict of interest between the plaintiffs given
25 that pursuant to the RFDCPA and FDCPA each plaintiff is entitled to their own
26 separate statutory damages. Cal. Civ. Code § 1788.30(b) provides:

27 //
28

Any debt collector who willfully and knowingly violates this title with respect to any debtor shall, in addition to actual damages sustained by the debtor as a result of the violation, also be liable to the debtor only in an individual action, and his additional liability therein to that debtor shall be for a penalty in such amount as the court may allow...

Further, 15 U.S.C. § 1692k(a)(2)(A) provides in relevant part:

... any debt collector who fails to comply with any provision of this subchapter with respect to any person is liable to such person in an amount equal to the sum of, in the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$1,000.

By virtue of the fact that each plaintiff is entitled to their own separate statutory damages for both RFDCPA and FDCPA violations, there is no conflict of interest between the proposed Guardian ad Litem Victoria A. Amelina and the minors she will represent, Plaintiffs A.A., D.S., and B.S.

Hyde & Swigart

Date: 8/28/14

By: 

Jessica R. K. Dorman
Attorneys for Plaintiffs

I consent to the appointment as Guardian ad Litem under the above petition.

Date: 8-13-14

By: 

Victoria A. Amelina
Proposed Guardian ad Litem